

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF MASSACHUSETTS

_____)	
FIT TECH, INC., PLANET FITNESS)	
CENTER, INC., PLANET FITNESS)	
CENTER OF MAINE, INC., PLANET)	
FITNESS CENTER OF DARTMOUTH,)	
INC., PLANET FITNESS CENTER OF)	
SALEM, INC., PLANET FITNESS)	
CENTER OF BRIGHTON, INC.,)	
STRATFORD FITNESS CENTER, INC.,)	
DAVID B. LAIRD and SCOTT G.)	
BAKER,)	
Plaintiffs,)	Civil Action No.
)	05-10471-MEL
vs.)	
)	
BALLY TOTAL FITNESS HOLDING)	
CORPORATION, HOLIDAY)	
UNIVERSAL, INC., PAUL TOBACK,)	
LEE HILLMAN, and JOHN DWYER,)	
Defendants.)	
_____)	

**DEFENDANTS' JOINT MOTION TO EXTEND TIME FOR THEM TO
RESPOND TO FIRST AMENDED COMPLAINT UNTIL A DAY
SET BY THE COURT AT THE JULY 13, 2005 SCHEDULING CONFERENCE**

Defendants Bally Total Fitness Holding Corporation, Holiday Universal, Inc., Paul Toback (together, "Bally"), Lee Hillman, and John Dwyer (the defendants are collectively referred to herein as "Defendants") hereby respectfully request that the Court in the above-entitled action, Fit Tech, Inc., et al v. Bally Total Fitness Holding Corporation, et al. (D. Mass Civ. No. 05-10471 MEL) extend the time in which Defendants must respond to the First Amended Complaint to a date to be set by the Court at the July 13, 2005 scheduling conference.

As grounds for this motion, Defendants state as follows:

1. Defendants anticipate that they will each file motions to dismiss some or all of the counts of the First Amended Complaint, but wish in advance to apprise the Court of the complex procedural and substantive issues that Defendants intend to raise in their motions, to seek the Court's guidance as to whether the Court believes a phased schedule for procedural and substantive motions is appropriate and to ask the Court to set a briefing schedule.

2. To allow the parties to address those issues with the Court before filing the motions, the parties have agreed to request and have requested that the Court hold a scheduling conference before the Defendants respond to the First Amended Complaint. The scheduling conference has been set for July 13, 2005.

3. Without the requested extension, the Defendants' responses would be due July 18, 2005.

4. When Bally's counsel initially spoke to Plaintiffs' counsel about setting a status conference for mid-July, Plaintiffs' counsel agreed to extend until a date set by the Court at the July 13, 2005 scheduling conference Defendants' responses to the First Amended Complaint. Defendants believe that Plaintiffs' counsel assents, but despite numerous telephone calls and emails to him, Defendants' counsel have received no response from Plaintiffs' counsel and thus have not been able to obtain his formal assent to this motion.

WHEREFORE, Defendants Bally Total Fitness Holding Corporation, Holiday Universal, Inc., Paul Toback, Lee Hillman and John Dwyer respectfully request that the Court extend the time in which all Defendants must respond to the First Amended Complaint until a date set by the Court at the July 13, 2005 scheduling conference.

LOCAL RULE 7.1 CERTIFICATION

The undersigned hereby certifies pursuant to L. R. 7.1(A)(2) that counsel for Bally discussed the extension sought by this motion with Plaintiffs' counsel and Plaintiffs' counsel agreed with the extension requested by this motion. Since that time, despite numerous phone calls and emails to Plaintiffs' counsel, Defendants' counsel have not been able to reach Plaintiffs' counsel and have not received a response to any messages left regarding this motion.

Respectfully submitted,

LEE HILLMAN and JOHN DWYER,
By their attorney,

BALLY TOTAL FITNESS HOLDING
CORPORATION, HOLIDAY
UNIVERSAL, INC., and PAUL
TOBACK,
By their attorneys,

/s/ Richard M. Gelb
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Dated: July 11, 2005